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Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

C  
VIRGINIA THOMAS, GAIL ADAMS,  
RODERICK CASEY, SANDRA DEAN,  
MARCUS HILL, KIMYA HOGARTH,  
DEREK HOVER, LINDA JACKSON,  
MICHAEL K. JACKSON, ALICIA LEWIS,  
LONDON MCCLOUD, NICOLE MILNE,  
SHELLY PARKER, MACHELLE  
PROCTER, DEAN SAUDER, MATTHEW  
STEPHAN, DESMOND STRASSER-KING,  
each individually, and on behalf of all others  
similarly situated and the general public,

Plaintiffs,

vs.

HOWREY LLP, a District of Columbia  
limited liability partnership, and DOES 1-500,

Defendants.

CV 11

Case No.

1729

CLASS ACTION COMPLAINT FOR EMC

- (1) Violation of the WARN Act (29 U.S.C. § 2101 *et seq.*);
- (2) Failure to Pay Wages (D.C. Code §§ 32-1303 to 32-1308);
- (3) Failure to Pay Wages (V.A. Code § 40.1-29);
- (4) Breach of Contract; and
- (5) Promissory Estoppel

DEMAND FOR JURY TRIAL

FILED

2011 APR -8 P 12:17

ORIGINAL

RICHARD W. WIEKING  
U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

183

1 Plaintiffs Virginia Thomas, Gail Adams, Roderick Casey, Sandra Dean, Marcus Hill, Kimya  
2 Hogarth, Derek Hover, Linda Jackson, Michael K. Jackson, Alicia Lewis, London McCloud,  
3 Nicole Milne, Shelly Parker, Machel Procter, Dean Sauder, Matthew Stephan and Desmond  
4 Strasser-King on behalf of themselves and all similarly situated persons allege:

5  
6 **PRELIMINARY STATEMENT**  
7

8 1. This case arises out of the collapse of Howrey LLP, a now defunct law firm that  
9 had its main office in Washington D.C., four substantial offices in California, and smaller  
10 offices in Utah, Texas, Illinois, Virginia, and New York. Plaintiffs and the proposed class  
11 members are employees of Defendant Howrey LLP and Does 1 through 500, who seek wages  
12 that Defendants have failed and refused to pay following the abrupt termination of Plaintiffs'  
13 employment.

14  
15 2. Through this action, Plaintiffs and other similarly situated employees of  
16 Defendants seek recovery of damages in the amount of sixty (60) days pay and ERISA, 401(k)  
17 and medical benefits by reason of Defendants' violation of the Plaintiffs' rights under the  
18 Worker Adjustment and Retraining Notification Act, 29 U.S.C. § 2101 *et seq.* (the "WARN  
19 Act"). Plaintiffs were employees of Defendants and were terminated as part of mass layoffs or  
20 plant closings ordered by the Defendants. Defendants violated federal, state and District of  
21 Columbia law by failing to give Plaintiffs and other similarly situated employees of the  
22 Defendants sixty (60) days notice as required by such laws.

23  
24 3. Plaintiffs and other similarly situated employees also seek recovery of unpaid  
25 wages, including vacation time and promised contributions to their pension plans, as a result of  
26 Defendants' failure to pay employees all wages due and owing at the time their employment was  
27 terminated.  
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1 worked in Defendants' Virginia office. They were employed by Defendants until March 31,  
2 2011. Mr. Hover worked as a senior network engineer. Mr. Sauder worked as a systems  
3 engineer team leader.

4  
5 7. Plaintiffs are informed and believe and thereon allege that Defendant Howrey LLP  
6 is a limited liability partnership organized under the laws of the District of Columbia, that it  
7 maintains offices and conducts business in the State of California, including in San Francisco,  
8 East Palo Alto, Irvine, and Los Angeles, and that because its partners were spread among  
9 several offices, it has no particular principal place of doing business or several principal places  
10 of doing business, including San Francisco, California and Washington D.C.

11  
12 8. Defendants Does 1-500, inclusive, are sued herein by these fictitious names.  
13 Their true names and capacities are unknown to Plaintiffs. When their true names and  
14 capacities are ascertained, Plaintiffs will amend this complaint by inserting their true names and  
15 capacities herein. Plaintiffs are informed and believe and thereon allege that each of the  
16 fictitiously named defendants is responsible in some manner for the occurrences herein alleged,  
17 and that the damages of Plaintiffs and the class members herein alleged were proximately  
18 caused by such Defendants.

19  
20 9. Plaintiffs are informed and believe and thereon allege that each of the Defendants  
21 herein gave consent to, ratified or authorized the acts alleged herein, and that each of the  
22 Defendants knowingly aided, abetted or conspired with the others to commit the acts alleged  
23 herein.

24 10. There exists, and at all times herein mentioned there existed, a unity of interest  
25 and ownership between Howrey LLP and Defendant Does 1 through 400, such that any  
26 individuality and separateness between them have ceased, and Howrey LLP is the alter ego of  
27 Defendant Does 1 through 400. Adherence to the fiction of the separate existence of Howrey  
28

1 LLP as an entity distinct from Defendant Does 1 through 400 would permit an abuse of the  
2 corporate privilege and would sanction fraud or promote injustice.

3  
4 11. Plaintiffs are informed and believe and thereon allege that Howrey LLP has  
5 dissolved, and that Defendant Does 1 through 400 are the successors in interest of Howrey LLP.

6  
7 12. Plaintiffs are informed and believe and thereon allege that Defendant Does 401  
8 through 500 are successors of Defendant Howrey LLP for labor law purposes. Defendant Does  
9 401 through 500 are law firms or other entities that have substantially continued the same  
10 business operations of Defendant Howrey LLP, with substantially the same employees working  
11 in similar jobs and working conditions, with similar supervisory personnel, using similar  
12 methods and offering similar services.

13  
14 13. Plaintiffs are informed and believe and thereon allege that Defendant Howrey LLP  
15 and Does 1-500 herein acted as a "single employer" at all relevant times for purposes of the  
16 WARN Act. At all relevant times, Defendant Howrey LLP maintained facilities that qualified  
17 for protection under the WARN Act (collectively, the "Facilities").

18  
19 **JURISDICTION AND VENUE**

20  
21 14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 as this  
22 case is being brought under the WARN Act, 29 U.S.C. § 2101 *et seq.*

23  
24 15. This Court also has supplemental jurisdiction over the state law claims pursuant to  
25 28 U.S.C. § 1367.

26  
27 16. Venue is proper in the United States District Court, Northern District of California  
28 pursuant to 28 U.S.C. § 1391, because Defendant Howrey LLP resides within this district, and



1 because a substantial part of the events and omissions giving rise to Plaintiffs' claims occurred  
2 in this District.

3  
4 17. JURISDICTIONAL STATEMENT REQUIRED BY L.R. 3-5. Under L.R. 3-2(c),  
5 this civil action arose in the County of San Francisco and is therefore properly assigned to either  
6 the Oakland or San Francisco division of this District.

7  
8 **FACTUAL ALLEGATIONS COMMON TO ALL COUNTS**

9  
10 18. On or about March 15, 2011, Defendant Howrey LLP announced that it was  
11 dissolving its partnership. On that day it informed Plaintiffs and substantially all other  
12 employees that their final day of employment would be May 13, 2011.

13  
14 19. Plaintiffs are informed and believe and thereon allege that on March 9, 2011,  
15 Robert Green, an equity partner of Howrey LLP, announced that the \$3.2 million contribution  
16 that the partnership was required to make to the firm's profit sharing plan by April 15, 2011 was  
17 "safe" and would be made as required. As of the date of the filing of this complaint, Howrey  
18 LLP has not paid any portion of this required contribution to the profit sharing plan.

19  
20 20. Plaintiffs are informed and believe and thereon allege that Howrey LLP has a self-  
21 insured medical benefit plan under which the partnership is required to contribute  
22 approximately \$1 million per month to the plan, which is operated by CIGNA. Howrey LLP  
23 stopped making such contributions to CIGNA starting as early as March 15, 2011. As a result,  
24 CIGNA has stopped or likely will soon stop paying for medical services provided to Plaintiffs  
25 and other Class Members under Howrey LLP's medical benefit plan.

26 21. On or about March 31, 2011, Defendants terminated the employment of Plaintiffs  
27 and hundreds of other employees in all of Defendant Howrey LLP's integrated offices.

1       22. Defendant Howrey LLP maintains retirement plans that apply to all of its United  
2 States employees. Through these retirement plans, Plaintiffs and other employees accrued  
3 retirement benefits as they worked for Defendant Howrey LLP.

4  
5       23. Defendant Howrey LLP maintains a vacation policy that applies to all of its  
6 United States employees. Through that vacation policy, Plaintiffs and other employees accrued  
7 vacation as they worked for Defendant Howrey LLP.

8  
9       24. Plaintiffs are informed and believe and thereon allege that starting approximately  
10 March 31, 2011, Defendant Howrey LLP failed and refused to pay all employees, including  
11 Plaintiffs, for their accrued and unused vacation at the time of employment termination, as well  
12 as promised contributions to their retirement plans.

13  
14       25. Plaintiffs had vacation time available to them when their employments were  
15 terminated on March 31, 2011, and were entitled to contributions to their retirement plans.  
16 Defendant Howrey LLP has not paid them for this vacation time or retirement plan  
17 contributions.

18                   **CLASS ACTION ALLEGATIONS UNDER 29 U.S.C. § 2104 (WARN ACT)**  
19

20       26. Plaintiffs and those they seek to represent herein were discharged without cause  
21 on their part on or about March 31, 2011, as the reasonably foreseeable consequence of the  
22 mass layoff or plant closing ordered by Defendants, and are "affected employees" within the  
23 meaning in 29 U.S.C. §2101(a)(5).

24  
25       27. Plaintiffs bring this action on their own behalf, pursuant to the WARN Act, and  
26 on behalf of all other similarly situated employees and former employees whose employment  
27 was terminated on or about March 31, 2011.

1        28.        During the 30 days starting March 31, 2011, Defendants terminated Plaintiffs'  
2 employment as part of a mass layoff or plant closing as defined by 29 U.S.C. § 2101(a)(2), (3)  
3 for which Plaintiffs were entitled to receive sixty (60) days advance written notice under the  
4 WARN Act.

5  
6        29.        Defendants, as a single employer, did not give Plaintiffs the statutorily required  
7 sixty (60) days notice of the mass layoff or termination in violation of the WARN Act.

8  
9        30.        Plaintiffs are informed and believe and thereon allege that at or about the time  
10 they were discharged, on or after March 31, 2011, Defendants discharged many other  
11 employees at the Facilities (the "Other Similarly Situated Former Employees").

12  
13        31.        Pursuant to 29 U.S.C. § 2104(a)(5), Plaintiffs maintain this claim on behalf of  
14 themselves and each of the Other Similarly Situated Former Employees.

15  
16        32.        Each of the Other Similarly Situated Former Employees is similarly situated to  
17 Plaintiffs in respect to his or her rights under the WARN Act, in that, *inter alia*:

18            a.        Plaintiffs and the Other Similarly Situated Former Employees were  
19 discharged by Defendants without cause on their part.

20  
21            b.        Plaintiffs and the Other Similarly Situated Former Employees are "affected  
22 employee(s)" within the meaning of the WARN Act 29 U.S.C. § 2101(a)(5).

23  
24            c.        Defendants was required by the WARN Act to give Plaintiffs and the  
25 Other Similarly Situated Former Employees at least sixty (60) days advance  
26 written notice of their respective terminations.



d. Prior to their termination, neither Plaintiffs nor the Other Similarly Situated Former Employees received written notice that complied with the requirements of the WARN Act.

e. Defendants failed to pay Plaintiffs and the Other Similarly Situated Former Employees their respective wages, salary, commissions, bonuses, accrued holiday, sabbatical, and vacation pay for sixty (60) calendar days following notice of their terminations, and provide them with health insurance coverage and other employee benefits under ERISA for sixty (60) calendar days from and after notice of their respective terminations.

f. Defendants failed and refused to pay vested retirement plan benefits and contributions, including, but not limited to, benefits and contributions that were scheduled to be paid on April 15, 2011 for employees who were employed by Howrey LLP on or before December 31, 2010.

### **WARN ACT CLASS ACTION ALLEGATIONS UNDER RULE 23**

33. Plaintiffs sue under Rules 23(a), (b)(1) and (b)(3) of the Federal Rules of Civil Procedure on behalf of the following Proposed Class:

Federal WARN Class: All persons employed at any of Defendants' facilities that employed at least 50 people who are "affected employees" within the meaning of 29 U.S.C. § 2101(a)(5) and who (1) were involuntarily terminated without cause on their part from a facility at which Defendants ordered a mass layoff or plant closing (as those terms are defined in the Federal WARN Act) on or about March 31, 2011; or (2) were involuntarily terminated without cause

1 on their part as the reasonably foreseeable consequence of a mass  
2 layoff or plant closing (as those terms are defined in the Federal  
3 WARN Act) ordered by Defendants on or about March 15, 2011.  
4 Excluded from this Class are all individuals who, 60 or more days  
5 prior to their date of termination, received notice that their  
6 employment would terminate.  
7

8 34. Numerosity: The Proposed Class is so numerous that joinder of all members is  
9 impracticable. Plaintiffs are informed and believe and thereon allege that over 50 people (and  
10 possibly hundreds) satisfy the definition of the Proposed Class.  
11

12 35. Typicality: The Plaintiffs' claims are typical of the members of the Proposed  
13 Class. Plaintiffs, and proposed class members, were involuntarily terminated by Defendants  
14 without proper notice under the WARN Act.  
15

16 36. Superiority: A class action is superior to other available methods for the fair and  
17 efficient adjudication of the controversy, especially in the context of WARN Act litigation,  
18 which necessarily involves a single decision or set of decisions that affects the rights of at least  
19 50 employees.  
20

21 37. Adequacy: Plaintiffs will fairly and adequately protect the interests of the  
22 Proposed Class, and have retained Steven A. Blum and Craig Collins of Blum Collins, LLP as  
23 counsel, who are experienced in representing employees in complex class litigation. For  
24 example, Messrs. Blum and Collins were lead class counsel in WARN Act certified class  
25 actions against the now-defunct AmLaw 100 law firms of Heller Ehrman LLP and Thelen LLP.  
26 In the Heller Ehrman class action, Messrs. Blum and Collins secured approximately \$20 million  
27 in potential recovery for the class members. The Thelen class action is still pending. In those  
28

1 cases, as here, Messrs. Blum and Collins were assisted by Douglas Thorpe, a former managing  
2 partner of another AmLaw 100 firm, Perkins Coie LLP.

3  
4 38. Commonality: Common questions of law and fact exist to all members of the  
5 Proposed Class and predominate over any questions solely affecting individual members of the  
6 Proposed Class, including but not limited to whether:

- 7
- 8 a. Defendants were covered employers under the WARN Act;
  - 9
  - 10 b. all class members were protected under the WARN Act;
  - 11
  - 12 c. all class members' employment locations were covered facilities under the  
13 WARN Act;
  - 14
  - 15 d. Defendants acted as a single employer in terminating class members'  
16 employment;
  - 17
  - 18 e. Defendants gave at least sixty (60) days advance written notice to the class  
19 members, as required by the WARN Act;
  - 20
  - 21 f. Defendants failed to pay the class members wages and to provide other  
22 employee benefits for the 60-day period following their respective terminations;
  - 23
  - 24 g. Defendants failed to pay the class members their vested retirement benefits  
25 and contributions.

26 39. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(1) because  
27 prosecution of actions by or against individual members of the Proposed Class may result in  
28

1 inconsistent or varying adjudications and create the risk of incompatible standards of conduct  
2 for Defendants.

3  
4 40. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3) because  
5 questions of law and fact common to the Proposed Class predominate over any questions  
6 affecting only individual members of the Proposed Class, and because a class action is superior  
7 to other available methods for the fair and efficient adjudication of this litigation. Litigation of  
8 these claims in one forum is efficient, especially in the context of WARN Act litigation, which  
9 necessarily involves a single decision or set of decisions that affects the rights of over 50 (and  
10 potentially hundreds) of employees. In addition, class certification is superior because it will  
11 avoid the need for unduly duplicative litigation that might result in inconsistent judgments  
12 about Defendants' practices.

13  
14 41. Plaintiffs intend to send notice to all members of the Proposed Class to the extent  
15 required by Rule 23. The names and addresses of members of the Proposed Class are available  
16 from Defendants.

17  
18 **ACCRUED COMPENSATION AND BENEFIT CLASS ACTION ALLEGATIONS**

19  
20 42. Plaintiffs sue under Rules 23(a), (b)(1), and (b)(3) of the Federal Rules of Civil  
21 Procedure on behalf of the following proposed Subclasses:

22 District of Columbia Accrued Compensation and Benefit Subclass:

23 All former employees of Defendants in the District of Columbia  
24 whose employment with Defendants ended on or after March 31,  
25 2011, and who had accrued compensation, accrued but unused  
26 vacation time and accrued retirement plan benefits at the time of  
27  
28

1           their termination for which Defendants did not fully compensate  
2           such employees.

3  
4           Virginia Accrued Compensation and Benefit Subclass: All former  
5           employees of Defendants in the State of Virginia whose employment  
6           with Defendants ended on or after March 31, 2011, and who had  
7           accrued compensation, accrued but unused vacation time and  
8           accrued retirement plan benefits at the time of their termination for  
9           which Defendants did not fully compensate such employees.

10  
11          43.       Numerosity: The Proposed Accrued Compensation and Benefit Subclasses are so  
12          numerous that joinder of all members is impracticable. Plaintiffs are informed and believe and  
13          thereon allege that at least 50 and potentially hundreds of people satisfy the definition of the  
14          Proposed Accrued Compensation and Benefit Subclasses.

15  
16          44.       Typicality: The Plaintiffs' claims are typical of the members of the Proposed  
17          Accrued Compensation and Benefit Subclasses. Plaintiffs are informed and believe and thereon  
18          allege that Defendant Howrey LLP uniformly failed to pay accrued compensation and benefits  
19          to individuals whose employment with Defendant Howrey LLP ended on or after March 31,  
20          2011.

21  
22          45.       Superiority: A class action is superior to other available methods for the fair and  
23          efficient adjudication of the controversy here, where Defendants have failed to pay accrued  
24          compensation and benefits to at least 50 and potentially hundreds of employees, and  
25          Defendants' dissolution may shrink the assets available to pay employees.

26  
27          46.       Adequacy: Plaintiffs will fairly and adequately protect the interests of the  
28          Proposed Class, and have retained Steven A. Blum and Craig Collins of Blum Collins, LLP as



1 counsel, who are experienced in representing employees in complex class litigation. For  
2 example, Messrs. Blum and Collins were lead class counsel in WARN Act certified class  
3 actions against the now-defunct AmLaw 100 law firms of Heller Ehrman LLP and Thelen LLP.  
4 In the Heller Ehrman class action, Messrs. Blum and Collins secured approximately \$20 million  
5 in potential recovery for the class members. The Thelen class action is still pending. In those  
6 cases, as here, Messrs. Blum and Collins were assisted by Douglas Thorpe, a former managing  
7 partner of another AmLaw 100 firm, Perkins Coie LLP.

8  
9 47. Commonality: Common questions of law and fact exist to all members of the  
10 Proposed Accrued Compensation and Benefit Subclasses and predominate over any questions  
11 solely affecting individual members of the Proposed Accrued Compensation and Benefit  
12 Subclasses, including but not limited to whether:

13  
14 a. Defendants uniformly and unlawfully failed to pay accrued compensation  
15 to subclass members;

16  
17 b. Defendants maintained a policy of providing vacation to subclass  
18 members;

19  
20 c. Defendants' vacation policy required that Defendants pay subclass  
21 members for their unused vacation at the time of termination;

22  
23 d. Defendants uniformly and unlawfully failed to pay vacation time to  
24 subclass members;

25  
26 e. Defendants maintained retirement plans that apply to subclass members;  
27 and  
28

1 f. Defendants uniformly and unlawfully failed to pay accrued retirement  
2 benefits to subclass members.

3  
4 48. This case is maintainable as a class action under Fed. R. Civ. P. 23(b)(1) because  
5 prosecution of actions by or against individual members of the class may result in inconsistent  
6 or varying adjudications and create the risk of incompatible standards of conduct for  
7 Defendants.

8  
9 49. Class certification is also appropriate under Fed. R. Civ. P. 23(b)(3) because  
10 questions of law and fact common to the Proposed Subclasses predominate over any questions  
11 affecting only individual members of the Proposed Subclasses, and because a class action is  
12 superior to other available methods for the fair and efficient adjudication of this litigation.  
13 Defendants' vacation policy applied to all Subclass Members. Defendants uniformly failed to  
14 pay unused vacation time to all Subclass Members. In addition, class certification is superior  
15 because it will obviate the need for unduly duplicative litigation that might result in inconsistent  
16 judgments about Defendants' practices.

17  
18 50. Plaintiffs intend to send notice to all members of the Proposed Subclasses to the  
19 extent required by Rule 23. The names and addresses of members of the Proposed Subclasses  
20 are available from Defendants.

21 **FIRST CLAIM FOR RELIEF FOR**  
22 **VIOLATION OF THE WARN ACT**  
23 **(Against All Defendants)**  
24

25 51. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.  
26  
27  
28

1        52.        The Defendants employed more than 100 employees who in the aggregate worked  
2 at least 4,000 hours per week exclusive of hours of overtime within the United States.

3  
4        53.        The Defendants was an "employer" as that term is defined in 29 U.S.C. §  
5 2101(a)(1) and 20 C.F.R. § 639.3(a) and continued to operate as a business until deciding to  
6 order a mass layoff or plant closing at the Facilities.

7  
8        54.        The Defendants constituted a "single employer" of Plaintiffs and Federal WARN  
9 Class members under the WARN Act.

10  
11        55.        On or about March 15, 2011 the Defendants ordered a "mass layoff" or "plant  
12 closing" of the Facilities, as those terms are defined in 29 U.S.C. § 2101(a)(2),(3).

13  
14        56.        Plaintiffs are informed and believe and thereon allege that the mass layoff or plant  
15 closing at the Facilities resulted in "employment losses," as that term is defined by 29 U.S.C. §  
16 2101(a)(2) for at least 50 of Defendants' employees as well as 33% of Defendants' workforce at  
17 each of the Facilities, excluding part-time employees as that term is defined by 29 U.S.C. §  
18 2101(a)(8).

19        57.        Plaintiffs and each of the other members of the Federal WARN Class were  
20 discharged by Defendants without cause on their part, as part of or as the reasonably foreseeable  
21 result of the mass layoff or plant closing ordered by Defendants at the Facilities.

22  
23        58.        Plaintiffs and the other members of the Federal WARN Class are "affected  
24 employees" of Defendants within the meaning of 29 U.S.C. §2101(a)(5).

25  
26        59.        Defendants failed to give Plaintiffs and other members of the Federal WARN  
27 Class written notice that complied with the requirements of the WARN Act.

1       60.       Plaintiffs and each of the other members of the Federal WARN Class are  
2 "aggrieved employees" of the Defendants as that term is defined in 29 U.S.C. §2104(a)(7).

3  
4       61.       Defendants failed to pay Plaintiffs and each of the other members of the Federal  
5 WARN Class their respective wages, salary, commissions, bonuses, accrued holiday pay and  
6 accrued vacation pay for 60 days following notice of their terminations and failed to provide  
7 employee benefits under ERISA and pay accrued retirement benefits, for 60 days following  
8 notice of their respective terminations. Defendants are also liable to Plaintiffs for their  
9 reasonable attorneys fees under 29 U.S.C. § 2104.

10  
11                               **SECOND CLAIM FOR RELIEF**  
12                               **VIOLATION OF DISTRICT OF COLUMBIA LABOR LAW**  
13                               **(Against All Defendants)**

14  
15       62.       Plaintiffs allege and incorporate by reference the allegations in the preceding  
16 paragraphs.

17  
18       63.       Plaintiffs Ms. Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill,  
19 Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms. McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms.  
20 Jackson, Mr. Stephan and Mr. King (collectively, the "D.C. Plaintiffs"), the District of  
21 Columbia Plaintiff Class Members, and the District of Columbia Accrued Compensation and  
22 Benefit Subclass Members have been terminated, or have resigned, from their positions with  
23 Defendants. Defendants, however, willfully failed to pay such Class Members all wages owed  
24 them, including vacation time, sabbatical, severance pay, and accrued retirement benefits.  
25 Defendants' conduct violates District of Columbia Code § 32-1303 which requires that, when  
26 employment is terminated, the employer shall pay the wages not later than the working day  
27 following such discharge.  
28

1        64.        Under District of Columbia Code § 32-1303(4), the D.C. Plaintiffs, the District of  
2        Columbia Plaintiff Class Members, and the District of Columbia Accrued Compensation and  
3        Benefit Subclass Members are entitled to twice the amount of wages unlawfully withheld for  
4        Defendants' failure to timely pay all wages owed upon separation of their employment.

5  
6        65.        Under District of Columbia Code § 32-1308, an action by an employee to recover  
7        unpaid wages and liquidated damages may be maintained in any court of competent jurisdiction  
8        by any one or more employees for and on behalf of herself or themselves and other employees  
9        similarly situated.

10  
11        66.        Under District of Columbia Code § 32-1308(b), in addition to any judgment  
12        awarded to the plaintiff or plaintiffs, the court may allow costs of the action, including costs or  
13        fees of any nature, and reasonable attorney's fees, to be paid by the defendant.

14  
15                    **THIRD CLAIM FOR RELIEF**  
16                    **VIOLATION OF VIRGINIA LABOR LAW**  
17                    **(Against All Defendants)**

18  
19        67.        Plaintiffs allege and incorporate by reference the allegations in the preceding  
20        paragraphs.

21        68.        Plaintiffs Mr. Hover and Mr. Sauder, the Virginia Plaintiff Class Members, and  
22        the Virginia Accrued Compensation and Benefit Subclass Members have been terminated, or  
23        have resigned, from their positions with Defendants. Defendants, however, willfully failed to  
24        pay such Class Members all wages owed them, including vacation time, sabbatical, severance  
25        pay, and accrued retirement benefits. Defendants' conduct violates Code of Virginia § 40.1-29  
26        which requires that, when employment is terminated, the employer shall pay all wages due on or  
27  
28



1 before the date on which the employee would have been paid for such work had his or her  
2 employment not been terminated.

3  
4 69. Under subdivision (G) of Code of Virginia § 40.1-29, in addition to being subject  
5 to any other penalty provided by law, any employer who fails to make payment of wages in  
6 accordance with this section shall be liable for the payment of all wages due, plus interest at an  
7 annual rate of eight percent accruing from the date the wages are due.

8  
9 **FOURTH CLAIM FOR RELIEF FOR**  
10 **BREACH OF CONTRACT AS TO THE DISTRICT OF COLUMBIA ACCRUED**  
11 **COMPENSATION AND BENEFIT SUBCLASS AND VIRGINIA ACCRUED**  
12 **COMPENSATION AND BENEFIT SUBCLASS**  
13 **(Against All Defendants)**

14  
15 70. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.

16  
17 71. A contract, oral and written, express and implied, existed between Members of the  
18 District of Columbia Accrued Compensation and Benefit Subclass (including Plaintiffs Ms.  
19 Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms.  
20 Lewis, Ms. McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms. Jackson, Mr. Stephan, and Mr.  
21 King) and Defendants.

22  
23 72. A contract, oral and written, express and implied, existed between Members of the  
24 Virginia Accrued Compensation and Benefit Subclass (including Plaintiffs Mr. Hover and Mr.  
25 Sauder) and Defendants.

26  
27 73. By those contracts, Defendants was required to pay employees all accrued  
28 vacation time, including sabbatical leave, at the termination of employment.

1       74. By those contracts, Defendants was required to pay employees all accrued but  
2 unpaid compensation (including, but not limited to, commissions or bonuses), accrued but  
3 unpaid retirement benefits, and accrued but unpaid employees benefits under ERISA, at the  
4 termination of employment.

5  
6       75. Defendants violated that contract by failing to pay accrued compensation and  
7 benefits to Plaintiffs Ms. Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill, Mr.  
8 Hogarth, Mr. Jackson, Ms. Lewis, Ms. McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms.  
9 Jackson, Mr. Stephan, Mr. King, Mr. Hover, Mr. Sauder, and to Members of the District of  
10 Columbia Accrued Compensation and Benefit Subclass and the Virginia Accrued  
11 Compensation and Benefit Subclass.

12  
13       76. As a result of Defendants' breach of contract, Plaintiffs Ms. Thomas, Ms. Adams,  
14 Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms.  
15 McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms. Jackson, Mr. Stephan, Mr. King, Mr.  
16 Hover, Mr. Sauder, the District of Columbia Accrued Compensation and Benefit Subclass  
17 Members, and the Virginia Accrued Compensation and Benefit Subclass Members suffered  
18 damages in the amount of their accrued but unpaid compensation, accrued but unpaid vacation  
19 and sabbatical time, and accrued but unpaid retirement and employee benefits, to be determined  
20 at trial.

21                                   **FIFTH CLAIM FOR RELIEF FOR**  
22                                   **PROMISSORY ESTOPPEL AS TO DISTRICT OF COLUMBIA ACCRUED**  
23                                   **COMPENSATION AND BENEFIT SUBCLASS AND VIRIGINA ACCRUED**  
24                                   **COMPENSATION AND BENEFIT SUBCLASS**  
25                                   **(Against All Defendants)**  
26

27       77. Plaintiffs incorporate by reference the allegations in the preceding paragraphs.  
28

1       78. Defendants reasonably expected to and did induce Plaintiffs Ms. Thomas, Ms.  
2       Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms.  
3       McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms. Jackson, Mr. Stephan, Mr. King, Mr.  
4       Hover, Mr. Sauder, the District of Columbia Accrued Compensation and Benefit Subclass  
5       Members, and the Virginia Accrued Compensation and Benefit Subclass Members to rely on  
6       promises relating to the payment of accrued but unpaid compensation, accrued but unused  
7       vacation and sabbatical time, and accrued but unpaid retirement and employee benefits.

8  
9       79. Plaintiffs Ms. Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill,  
10       Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms. McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms.  
11       Jackson, Mr. Stephan, Mr. King, Mr. Hover, Mr. Sauder, the District of Columbia Accrued  
12       Compensation and Benefit Subclass Members, and the Virginia Accrued Compensation and  
13       Benefit Subclass Members reasonably relied to their detriment on promises and representations  
14       made to them by Defendants relating to the payment for accrued but unpaid compensation,  
15       accrued but unused vacation and sabbatical time, and accrued but unpaid retirement and  
16       employee benefits.

17       80. Defendants have refused to honor the promises made to Plaintiffs Ms. Thomas,  
18       Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean, Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms. Lewis,  
19       Ms. McCloud, Ms. Milne, Ms. Parker, Ms. Procter, Ms. Jackson, Mr. Stephan, Mr. King, Mr.  
20       Hover, Mr. Sauder, the District of Columbia Accrued Compensation and Benefit Subclass  
21       Members, and the Virginia Accrued Compensation and Benefit Subclass Members.

22  
23       81. As a result, Plaintiffs Ms. Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms. Dean,  
24       Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms. McCloud, Ms. Milne, Ms. Parker, Ms.  
25       Procter, Ms. Jackson, Mr. Stephan, Mr. King, Mr. Hover, Mr. Sauder, the District of Columbia  
26       Accrued Compensation and Benefit Subclass Members, and the Virginia Accrued  
27       Compensation and Benefit Subclass Members are entitled to an award in equity in the amount  
28

1 of their accrued but unpaid compensation, accrued but unpaid vacation and sabbatical time, and  
2 accrued but unpaid retirement and employee benefits, to be determined at trial.

3  
4 **PRAYER FOR RELIEF**

5  
6 82. WHEREFORE, Plaintiffs, on behalf of themselves and all members of the  
7 Proposed Class and Subclasses, pray for relief as follows:

8  
9 A. That the Court determine that this action may be maintained as a class  
10 action under Federal Rule of Civil Procedure 23;

11  
12 B. That Defendants is found to have violated the provisions of the WARN  
13 Act as to Plaintiffs and the WARN Class;

14  
15 C. That Defendants are found to have violated District of Columbia Code  
16 § 32-1303 requiring payment of wages upon termination, and that under District  
17 of Columbia Code § 32-1303(4) the Defendants must pay twice the amount of  
18 wages unlawfully withheld, together with costs of suit and a reasonable sum for  
19 attorney fees, to Plaintiffs Ms. Thomas, Ms. Adams, Mr. Casey, Mr. Dalal, Ms.  
20 Dean, Mr. Hill, Mr. Hogarth, Mr. Jackson, Ms. Lewis, Ms. McCloud, Ms. Milne,  
21 Ms. Parker, Ms. Procter, Ms. Jackson, Mr. Stephan, Mr. King, and members of  
22 the District of Columbia Plaintiff Class;

23  
24 D. That Defendants are found to have violated Virginia labor law, and that  
25 under Code of Virginia § 40.1-29, Plaintiffs Mr. Hover and Mr. Sauder and the  
26 Virginia Plaintiff Class Members are entitled to unpaid wages and benefits,  
27 and interest at an annual rate of eight percent on all unpaid wages and benefits  
28 accruing from the date the wages and benefits were due;

1 E. That Defendants are found to have breached a contract with District of  
2 Columbia Accrued Compensation and Benefit Subclass Members and Virginia  
3 Accrued Compensation and Benefit Subclass Members by failing to pay accrued  
4 but unpaid compensation, accrued but unpaid vacation and sabbatical time, and  
5 accrued but unpaid retirement and employee benefits at the time of termination,  
6 and that Defendants must pay damages;

7  
8 F. For an award, of damages or in equity, in the amount of unpaid  
9 compensation, vacation and benefits owed to members of the District of Columbia  
10 Accrued Compensation and Benefit Subclass and the Virginia Accrued  
11 Compensation and Benefit Subclass;

12  
13 G. For an award to Plaintiffs and all class members for the amount of all  
14 unpaid wages, compensation and benefits owed, including interest thereon, and  
15 penalties subject to proof at trial;

16  
17 H. An award of reasonable attorneys' fees and costs pursuant to 29 U.S.C. §  
18 2104, District of Columbia Code § 32-1308, and/or other applicable law and other  
19 applicable law; and

20  
21 I. For such other and further relief, in law or equity, as this Court may deem  
22 appropriate and just.  
23  
24  
25  
26  
27  
28



1 Dated: April 7, 2011

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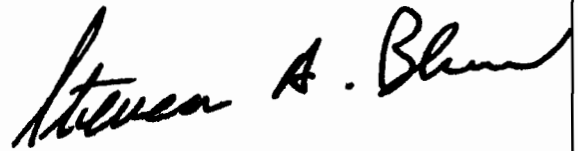
Steven A. Blum

Craig M. Collins

Douglas L. Thorpe

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By



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Attorneys for Plaintiffs

**DEMAND FOR JURY TRIAL**

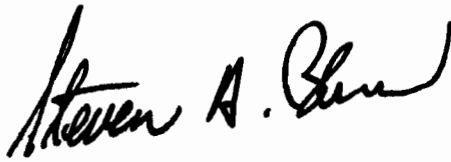
Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and the Seventh Amendment of the United States Constitution, Plaintiffs, individually and on behalf of all others similarly situated, demand a trial by jury.

Dated: April 7, 2011

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Steven A. Blum  
Craig M. Collins  
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Gary Ho

By



Steven A. Blum  
Attorneys for Plaintiffs